

**IN THE UNITED STATES DISTRICT COURT FOR THE
DISTRICT OF MASSACHUSETTS**

PETER J. MILLER, an individual,
CLIFFORD HOYT, an individual, and
CAMBRIDGE RESEARCH AND
INSTRUMENTATION, INC.,
a Delaware corporation,

Plaintiffs,

v.

PATRICK TREADO, an individual, and
CHEMIMAGE CORP., a Delaware
corporation,

Defendants.

Civil Action No. 05-10367-RWZ

**PLAINTIFFS' MOTION TO DENY
KRISTINA M. JOHNSON, AN EXPERT FOR DEFENDANTS,
ACCESS TO PLAINTIFFS' PROTECTED MATERIAL**

Plaintiffs Cambridge Research and Instrumentation, Inc., Peter J. Miller, and Clifford Hoyt (collectively, "CRI" or "plaintiffs") move, pursuant to Section D.5 of the Stipulated Protective Order [D.E. 38-2] entered by the Court on May 1, 2006, to deny Kristina M. Johnson, an expert for the Defendants Patrick Treado and ChemImage Corp. (collectively, "ChemImage" or "defendants"), access to Plaintiffs' Protected Material.

Pursuant to LR 7.1(b)(1), a memorandum of reasons, including citations of proper authorities, the Declarations of Mher Hartoonian and Theodore I. Les in support thereof, and Exhibits 1 through 9 thereto, are being served concurrently.

In support, plaintiffs state as follows:

1. Because defendants have elicited testimony regarding plaintiffs' extremely sensitive and confidential business and technical information, plaintiffs have designated certain depositions "CONFIDENTIAL" under the Stipulated Protective Order [D.E. 38-2] entered by the Court on May 1, 2006 in this action. All materials designated "CONFIDENTIAL" are referred to as "Protected Material" in the Stipulated Protective Order.

2. Defendants have informed plaintiffs of defendants' intent to disclose plaintiffs' Protected Material to one of their experts, Kristina M. Johnson, who is a "co-founder" of a third party company, ColorLink, Inc., a direct business competitor of plaintiffs. Plaintiffs objected under Section D.5 of the Stipulated Protective Order.

3. Pursuant to LR 7.1(a)(2), LR 37.1(b), and Section D.5 of the Stipulated Protective Order, plaintiffs conferred with defendants in a good faith attempt to resolve or narrow the issue, but the parties could not resolve the issue, and defendants have not provided any substantive information regarding Ms. Johnson's involvement with ColorLink, despite plaintiffs' repeated requests.

4. At least because (a) denying Ms. Johnson access to plaintiffs' extremely sensitive and confidential business and technical information will *not* harm defendants (as they have at least one other designated expert whose access to this sensitive information is not objectionable to plaintiffs), and (b) allowing Ms. Johnson access to plaintiffs' extremely sensitive and confidential business and technical information *will* harm CRI (because an individual associated with a third-party competitor will have complete access to plaintiffs' sensitive and confidential business and

Plaintiff's Motion to Deny
K. Johnson, One of Defendants' Experts,
Access to Plaintiffs' Protected Material

technical information), the Court should grant the present motion to deny Ms. Johnson's access to plaintiffs' Protected Material.

5. The details of ¶¶1-4 above are described in plaintiffs' memorandum of reasons in support of this motion, the Declarations of Mher Hartoonian and Theodore I. Les in support thereof, and Exhibits 1 through 9 thereto, which are being served concurrently, and which will be filed with the Court when the accompanying motion to impound is granted.

WHEREFORE, plaintiffs respectfully request, pursuant to Section D.5 of the Stipulated Protective Order [D.E. 38-2], that the Court deny Kristina M. Johnson, one of defendants' experts, access to plaintiffs' Protected Material.

Respectfully submitted,

**PETER J. MILLER, CLIFFORD HOYT,
and CAMBRIDGE RESEARCH AND
INSTRUMENTATION, INC.,**

By their attorneys:

Dated: February 15, 2007

/s/ Teodor Holmberg
Martin B. Pavane (admitted *pro hac vice*)
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Plaintiff's Motion to Deny
K. Johnson, One of Defendants' Experts,
Access to Plaintiffs' Protected Material

LOCAL RULE 37.1(b) CERTIFICATION

Counsel for Plaintiffs certifies that the provisions of LR 37.1 have been complied with, as is described in the accompanying memorandum.

/s/ Teodor Holmberg
Teodor J. Holmberg (BBO# 634708)

LOCAL RULE 7.1(A)(2) CERTIFICATION

Counsel for Plaintiffs certifies that counsel for plaintiffs has conferred with counsel for defendants in a good faith attempt to resolve or narrow the issue presented in this motion, as is described in the accompanying memorandum.

/s/ Teodor Holmberg
Teodor J. Holmberg (BBO# 634708)

CERTIFICATE OF SERVICE

I hereby certify that the document identified in the top right-hand portion of this page and filed through the ECF system will be sent electronically to the registered participants as identified on the Notice of Electronic Filing (NEF).

Dated: February 15, 2007

/s/ Teodor Holmberg
Teodor J. Holmberg (BBO# 634708)